



ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R01-OAR-2021-0672; FRL-9558-02-R1]

Air Plan Approval; New Hampshire; Boston-Manchester-Portsmouth Area Second 10-Year Limited Maintenance Plan for 1997 Ozone NAAQS

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is approving a State Implementation Plan (SIP) revision submitted by the State of New Hampshire. On July 29, 2021, the State submitted its 1997 ozone national ambient air quality standards (NAAQS) Limited Maintenance Plan (LMP) for the Boston-Manchester-Portsmouth (Portsmouth) area. EPA is approving the Portsmouth area LMP because it provides for the maintenance of the 1997 ozone NAAQS through the end of the second 10-year portion of the maintenance period. The effect of this action will be to make certain commitments related to maintenance of the 1997 ozone NAAQS in the Portsmouth maintenance area part of the New Hampshire SIP and therefore federally enforceable. This action is being taken in accordance with the Clean Air Act.

DATES: This rule is effective on [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

ADDRESSES: EPA has established a docket for this action under Docket Identification No. EPA-R01-OAR-2021-0672. All documents in the docket are listed on the <https://www.regulations.gov> web site. Although listed in the index, some information is not publicly available, i.e., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form.

Publicly available docket materials are available at <https://www.regulations.gov> or at the U.S. Environmental Protection Agency, EPA Region 1 Regional Office, Air and Radiation Division, 5 Post Office Square - Suite 100, Boston, MA. EPA requests that, if at all possible, you contact the

contact listed in the **FOR FURTHER INFORMATION CONTACT** section to schedule your inspection. The Regional Office's official hours of business are Monday through Friday, 8:30 a.m. to 4:30 p.m., excluding legal holidays and facility closures due to COVID-19.

FOR FURTHER INFORMATION CONTACT: Eric Rackauskas, Air Quality Branch, U.S. Environmental Protection Agency, EPA Region 1, 5 Post Office Square - Suite 100, (Mail code 05-2), Boston, MA 02109 - 3912, tel. (617) 918-1628, email *rackauskas.eric@epa.gov*

SUPPLEMENTARY INFORMATION:

Throughout this document whenever “we,” “us,” or “our” is used, we mean EPA.

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I. Background and Purpose

On March 1, 2022 (87 FR 11373), EPA published a Notice of Proposed Rulemaking (NPRM) for the State of New Hampshire.

The NPRM proposed approval of the State's 1997 ozone national ambient air quality standards (NAAQS) Limited Maintenance Plan (LMP) for the Boston-Manchester-Portsmouth (Portsmouth) area. The formal SIP revision was submitted by New Hampshire on July 29, 2021. The Portsmouth area 8-hour ozone nonattainment area in the southeastern-most portion of the state includes 52 cities and towns with a combined population of 729,071 in Hillsborough, Merrimack, Rockingham and Strafford counties. On June 15, 2004, the Portsmouth area was designated as nonattainment for the 1997 ozone NAAQS. On March 4, 2013, the area was redesignated to attainment with that standard.

The Portsmouth area's LMP for the 1997 ozone NAAQS submitted by the New Hampshire Department of Environmental Services (DES) is designed to maintain the 1997 ozone NAAQS within this area through the end of the second ten-year period of the maintenance period. We are approving the plan because it meets all applicable requirements under CAA sections 110 and 175A.

Other specific requirements of the LMP and the rationale for EPA's proposed action are explained in the NPRM and will not be restated here. No public comments were received on the NPRM.

II. Final Action

EPA is approving the New Hampshire 1997 ozone national ambient air quality standards (NAAQS) Limited Maintenance Plan for the Boston-Manchester-Portsmouth area as a revision to the New Hampshire SIP.

III. Statutory and Executive Order Reviews

Under the Clean Air Act, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the Clean Air Act. Accordingly, this action merely approves state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this action:

- Is not a significant regulatory action subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104-4);
- Does not have federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);

- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the Clean Air Act; and
- Does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, the SIP is not approved to apply on any Indian reservation land or in any other area where EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the rule does not have tribal implications and will not impose substantial direct costs on tribal governments or preempt tribal law as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this action and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the *Federal Register*. A major rule cannot take effect until 60 days after it is published in the *Federal Register*. This action is not a “major rule” as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by [INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]. Filing a petition for

reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Incorporation by reference, Intergovernmental relations, Lead, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

Dated: April 14, 2022.

David Cash,
Regional Administrator,
EPA Region 1.

Part 52 of chapter I, title 40 of the Code of Federal Regulations is amended as follows:

PART 52 – APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401 et seq.

Subpart EE – New Hampshire

2. In § 52.1520(e) amend the table by adding entries for “Boston-Manchester-Portsmouth Area Second 10-Year Limited Maintenance Plan for 1997 Ozone NAAQS” and “Letter from New Hampshire and attachment G Amendment” at the end of the table to read as follows:

§ 52.1520 Identification of plan.

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(e) * * *

New Hampshire Non-Regulatory

Name of nonregulatory SIP provision	Applicable geographic or nonattainment area	State submittal date/effective date	EPA approved date¹	Explanations
**	*	*	*	**
Boston-Manchester-Portsmouth Area Second 10-Year Limited Maintenance Plan for 1997 Ozone NAAQS	Boston-Manchester-Portsmouth Maintenance Area	7/29/2021	[Insert date of publication in the <u>Federal Register</u>] [Insert <u>Federal Register</u> citation]	Approval for 2nd 10-year LMP for 1997 ozone NAAQS
Letter from New Hampshire and attachment G Amendment	Boston-Manchester-Portsmouth Maintenance Area	12/23/2021	[Insert date of publication in the <u>Federal Register</u>] [Insert <u>Federal Register</u> citation]	Supplemental information for 2nd 10-year LMP for 1997 ozone NAAQS

[FR Doc. 2022-08392 Filed: 4/21/2022 8:45 am; Publication Date: 4/22/2022]

¹ In order to determine the EPA effective date for a specific provision listed in this table, consult the **Federal Register** notice cited in this column for the particular provision.